

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KYLE KANE KICKING WOMAN ,

Defendant.

CR 13-94-GF-BMM-01

**ORDER ADOPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATIONS TO REVOKE
DEFENDANT'S SUPERVISED RELEASE**

United States Magistrate Judge John Johnston entered Findings and Recommendations in this matter on March 9, 2016. (Doc. 45.) Neither party filed objections. When a party makes no objections, the Court need not review de novo the proposed Findings and Recommendations. *Thomas v. Arn*, 474 U.S. 140, 149–52 (1986). This Court will review Judge Johnston's Findings and Recommendations, however, for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

Judge Johnston conducted a revocation hearing on March 7, 2016. (Doc. 40.) Kicking Woman admitted to having violated his conditions of supervised release

by consuming alcohol. (*Id.*) Judge Johnston found the evidence sufficient to establish that Kicking Woman violated the conditions of his supervised release. (*Id.*)

Judge Johnston recommends this Court revoke Kicking Woman's supervised release and that the Court sentence Kicking Woman to six (6) months imprisonment with twenty-four (24) months of supervised release to follow. (Doc. 45.) Judge Johnston recommends that Kicking Woman be placed in a facility in Sheridan, Oregon. Judge Johnston further recommends that the conditions of supervised release previously imposed should be continued, and that the Court should add a condition requiring Kicking Woman to reside at a residential reentry center for 180 days. (*Id.*)

Kicking Woman's criminal history category is II, the current violation is a Grade C, and the underlying offense is a Class C felony. The statutory range is a maximum of 24 months imprisonment. The statutory and guideline term of supervised release is 30 months, less any custody time imposed. The United States Sentencing Guidelines call for four to ten months in custody.

This Court finds no clear error in Judge Johnston's Findings and Recommendations. Kicking Woman's current violation is serious in nature. A sentence of six (6) months imprisonment followed by a term of twenty-four (24) months supervised release is sufficient, but not greater than necessary. The same

conditions of supervised release previously imposed shall be continued, and the following condition shall be added:

Kicking Woman shall reside in a Residential Reentry Center (RRC) under contract to the United States Bureau of Prisons, in the pre-release component, for a period of 6 months. Kicking Woman shall abide by all rules and regulations of the center and successfully complete any programming as deemed appropriate by the United States Probation Office.

IT IS HEREBY ORDERED that Judge Johnston's Findings and Recommendations (Doc. 45) is **ADOPTED IN FULL. IT IS FURTHER ORDERED** that Defendant Kyle Kane Kicking Woman's supervised release shall be revoked and he shall be committed to the custody of the United States Bureau of Prisons for **six (6) months with twenty-four (24) months of supervised release** to follow.

DATED this 25th day of March, 2016.



Brian Morris
United States District Court Judge